

Before the
Federal Communications Commission
Washington, D.C. 20554

JAN 14 9 20 AM '04

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In the Matter of)
)
Implementation of Section 3 of the Cable)
Television Consumer Protection and Competition) MM Docket No. 92-266
Act of 1992)
)
Statistical Report on Average Rates for Basic)
Service, Cable Programming Service and)
Equipment)

ORDER

Adopted: January 13, 2004

Released: January 14, 2004

Responses Due: February 27, 2004

By the Chief, Media Bureau

I. INTRODUCTION

1. Section 623(k) of the Communications Act, as amended by the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"),¹ requires the Commission to publish annually a statistical report on average rates for basic cable service, cable programming service, and equipment.² The Act also requires the Commission to compare the average rates of cable operators subject to effective competition with those of operators not subject to effective competition.³

¹ Section 623(k) was adopted as Section 3(k) of the 1992 Cable Act, Pub. L. No. 102-385, 106 Stat. 1460, codified at 47 U.S.C. § 543(k).

² 47 U.S.C. § 543(k). The 1992 Cable Act defines basic cable service as that tier of service that includes the retransmission of local television broadcast signals. *See* 47 U.S.C. § 543(b)(7). Cable programming service is defined as any video programming other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis. *See* 47 U.S.C. § 543(k)(1)(2). Equipment refers to a converter box, remote control, and other equipment necessary to access programming. *See* 47 U.S.C. § 543(b)(3).

³ Effective competition exists where the Commission has found that a multichannel video programming distributor ("MVPD") meets one of four tests within its franchise area: (1) fewer than 30% of households subscribe to the service of the cable system (herein referred to as the "low penetration test"); (2) at least two MVPDs serve 50% or more of households and at least 15% of those households take service other than from the largest MVPD (the "overbuild test"); (3) a municipal MVPD offers service to at least 50% of households (the "municipal test"); (4) a local exchange carrier ("LEC") or its affiliate (or any MVPD using the facilities of the LEC or its affiliate) offers video programming service (other than direct broadcast satellite ("DBS") service) comparable to the service of an unaffiliated MVPD (the "LEC test"). *See* 47 U.S.C. § 543(1)(1)(A-D).

2. To implement the requirements of Section 623(k), the Commission is directing certain cable operators to respond to a price survey questionnaire designed to solicit information concerning rates for basic service and cable programming service and equipment used to receive such services. A copy of the questionnaire, along with instructions for completing and returning the questionnaire, is attached to this Order as Appendix B. The cable operators selected for our sample must complete and return the questionnaire(s) no later than February 27, 2004.

3. The survey asks questions about an operator's monthly charge for the basic service tier, cable programming service tiers, and equipment. The survey requires cable operators to provide this information as of January 1, 2004, January 1, 2003, and January 1, 2002. In addition, the survey asks for information on such factors as number of subscribers and installation charges as of January 1, 2004, and January 1, 2003, and operating revenues and expenses for the 12-month period ending December 31, 2003 and December 31, 2002. The survey also seeks information concerning system capacity, advanced services, and channel listings as of January 1, 2004.⁴

4. Our sample includes a random sample of cable systems serving communities where the Commission has granted a petition for effective competition, and a random sample of other communities nationwide. A completed questionnaire is required for each community selected for the survey. If more than one community is selected from any cable system, the cable operator should complete a separate questionnaire for each community unit identification ("CUID") number selected.

5. Data submitted in response to this survey will be made available to the public in aggregate form. No data that can be used to identify individual respondents, either directly or indirectly, will be released to the public. If individual respondents to the survey wish to request confidential treatment of any data provided in connection with this survey, in accordance with Sections 0.457 and 0.459 of the Commission's rules, they should identify clearly the specific information they wish to protect and provide, as required by the rules, a complete explanation of why such treatment is appropriate.

6. Accordingly, IT IS ORDERED pursuant to Section 3 of the 1992 Cable Act (Section 623(k) of the Communications Act of 1934, as amended), 47 U.S.C. 543(k), and Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), that cable systems subject to the price survey requirement described herein shall complete and return the questionnaire set forth in the attached Appendix B no later than February 27, 2004.

FEDERAL COMMUNICATIONS COMMISSION

W. Kenneth Ferree
Chief, Media Bureau

⁴ We are mindful of the need to limit administrative burdens associated with this price survey. We anticipate that the burdens faced by responding cable operators should be quite limited, as the information requested is of the type that should be readily available to operators. Suggestions for reducing the burden may be sent to the Commission. For further information, see the notice contained in Appendix A of this Order regarding the Privacy Act and Paperwork Reduction Act.

Appendix A

2004 Cable Price Survey

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The solicitation of information in this form is authorized by Section 623(k) of the Communications Act, as amended. The Commission will use the information provided in this form to compare prices charged for basic cable service, cable programming service, and equipment by cable operators that are subject to effective competition with those not subject to effective competition. This form has been approved by the Office of Management and Budget, under OMB control number 3060-0647 (expiration date: November 30, 2006).

The public reporting burden for this information is estimated to average seven hours per response, including the time for reviewing instructions, searching existing data sources, gathering and entering the data needed, and completing and reviewing the questionnaire. Suggestions for reducing the burden may be included on the note page contained in the questionnaire. Alternatively, send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, Washington, D.C., 20554. (Do not send completed survey questionnaires to this address.)

The above notice is required by the Privacy Act of 1974, Pub. L. No. 93-579, 88 Stat. 1897, codified at 5 U.S.C. § 552a (e)(3), and the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163, codified at 44 U.S.C. § 3507

APPENDIX B

2004 Cable Price Survey

INSTRUCTIONS FOR FCC ANNUAL CABLE INDUSTRY PRICE SURVEY

General Information: Complete the attached questionnaire to the best of your ability. Please read these instructions before completing the survey. In addition, refer to the questionnaire for guidance on answering specific questions. This is important because it is essential that all operators use the same definition for each question.

Information is generally requested at the community/franchise level, although we ask for the number of households and number of subscribers at both the community and system level, and questions pertaining to operating revenues and expenses are at the system level. Complete a questionnaire for each CUID listed in the attachment to the letter accompanying this Order.

Background: The 1992 Cable Act requires that the Commission publish an annual statistical report on average rates for basic cable service, cable programming service, and equipment. The report must compare the prices charged by cable operators subject to effective competition with those that are not subject to effective competition. This survey is intended to collect the data needed to fulfill that statutory requirement.

The survey asks questions about an operator's monthly charge for the basic service tier and cable programming service tiers, and the monthly charge for equipment as of January 1, 2004, January 1, 2003, and January 1, 2002. In addition, the survey asks for information on the number of subscribers, number of channels in each tier, installation charges, and operating revenues and expenses as of January 1, 2004 and January 1, 2003 (or for the 12-month period ending December 31, 2003 and December 31, 2002, as appropriate). The survey also seeks information on system capacity, advanced services, and channel listings as of January 1, 2004.

Tier Definitions: Basic Service Tier (BST) is the package of channels (or tier) that includes the retransmission of local broadcast stations; public, educational and government (PEG) channels; commercial leased access of local origination; and other local stations. It sometimes may include a few satellite or regional channels.

Cable Programming Service Tier (CPST) is any package or tier of channels other than the BST or programming offered as pay-per-program or pay-per-channel.

Responding Official: A company official who is familiar with the services offered and rates charged by the cable system should complete this survey.

How to download the survey from the Commission's Internet web site: Download the questionnaire in computer spreadsheet format at <http://www.fcc.gov/mb/2004>, located on the Commission's Internet site. The questionnaire is available as both a Microsoft (Excel 97-2001) workbook and Lotus 1-2-3 (Release 9.5) workbook.

How to return the survey to the Commission: Responses must be received no later than February 27, 2004. To facilitate the return of completed questionnaires, we encourage you to return the questionnaire as an attachment to an e-mail. Alternatively, we request that you hand or messenger deliver the

questionnaires, or deliver by commercial overnight carrier to the addresses specified below. In selecting any of these options, please ensure that the electronic survey file you send is virus free using virus-detection software. If filing by e-mail, no paper copy of the completed questionnaire need be sent. If using one of the other options listed below, please send one paper copy and one 3.5-inch diskette containing the completed questionnaire. Please do not send a diskette containing the completed questionnaire via regular mail because the mail screening techniques used by the Agency will render the diskette useless. If you do not have access to a computer, two paper copies will be accepted in lieu of an electronic filing.

E-Mail: We encourage the use of e-mail to facilitate the return of completed questionnaires. Attach the completed questionnaire as an Excel or Lotus attachment to an e-mail message sent to the following address, which was established uniquely for this purpose: cablesurvey@fcc.gov. Only FCC employees participating in the analysis of the survey will have access to this account. Responses will be protected to ensure that after being received by the FCC they are secure from unauthorized access. No paper copy of the survey need be sent.

Commercial overnight delivery: You may return completed questionnaires via a commercial overnight delivery service. Responses should be delivered to 9300 East Hampton Drive, Capitol Heights, MD 20743, between 8:00 a.m. and 5:30 p.m. Address to Media Bureau, Federal Communications Commission, Attention: Cable Price Survey. Deliver one paper copy and one 3.5-inch diskette containing the questionnaire in Excel or Lotus format.

Hand delivery or messenger delivery: The Commission's contractor, Natek, Inc., will receive either hand-delivered or messenger-delivered filings at 236 Massachusetts Avenue NE, Suite 110, Washington, D.C. 20002, between 8:00 a.m. and 7:00 p.m. Envelopes must be disposed of before entering the building. Therefore, attach a cover page to one paper copy of the questionnaire, addressed to Media Bureau, Federal Communications Commission, Attention: Cable Price Survey. Fasten together that paper copy and a 3.5-inch diskette containing the completed questionnaire in Excel or Lotus format, and deliver to the above address.

Confidentiality: If individual respondents to the survey wish to request confidential treatment of any data provided in connection with this survey, in accordance with Sections 0.457 or 0.459 of the Commission's rules, they should identify clearly the specific information they wish to protect and provide, as required by the rules, a complete explanation of why such treatment is appropriate.

If You Need Help: If you have any questions regarding the content of the questionnaire, the definitions to be used in answering specific questions, or the method of filing, please call John Scott of the Media Bureau at (202) 418-2330, Monday through Friday, between 9:00 a.m. and 5:30 p.m. (EST), for assistance.

Federal Communications Commission
Washington, DC 20554

Approved by OMB 3060 - 06476
Expiration Date 11/30/06

2004 FCC ANNUAL CABLE PRICE SURVEY
(Save this file under the CUID number in Question 1)

A. Operator Information

- 01 6-digit community unit identification (CUID)
02 Name of community
03 Name of county in which community is situated
04 Number of subscribers to your cable TV service in this community
05 5-digit Zip Code with highest number of your subscribers in community

* If you cannot identify the highest, then a Zip Code with a significant portion of subscribers.

Questions 6 - 11 pertain to your physical system. A system consists of one or more communities which are technologically connected by cable or microwave. Most physical systems consist of communities served by the same headend. The Commission assigns a physical system identification (PSID) number to each physical system. Please enter the PSID number in the space provided.

- 06 System's physical unit identification (PSID)
07 Name of cable system that serves this community
08 Street address and/or POB
09 City, state, and Zip Code
10 System's highest operating capacity (in MHz, e.g., 750)
11 Is this system part of a cluster in close proximity? (yes or no) *

* Sharing common personnel, management, marketing, and/or facilities.

- 12 Name of ultimate parent entity
13 Name of survey contact person
14 Area code and telephone number
15 Number of subscribers nationwide of parent

I certify that I have examined this report and all statements of fact herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith. Willful false statements made on this form are punishable by fine and/or imprisonment (US Code, Title 18, Section 1001) and/or forfeiture (US Code, Title 47, Section 503).

Name
Date
Title

B. Competition

Local governments have authority to regulate the price of the basic service tier (Section C describes the BST), unless the FCC grants an "Effective Competition" petition for the franchise area. Even if you have a competitor in your community, if the FCC has not granted Effective Competition status to your operation in that community, you are not subject to Effective Competition and the certified local franchising authority has the authority to regulate your BST rates. Thus, if the answer to Question 16 is "yes," the answer to Question 17 must be "no." Otherwise, Question 17 depends on whether the local government exercises its authority to regulate BST rates.

- 16 Has the FCC made a finding of "Effective Competition" for this community? (yes or no)
17 Does the local government regulate basic tier cable rates for this community? (yes or no)

Even though the definition of Effective Competition refers to the community/franchise, Questions 18-22 use the system area as a point of reference. This is because we have found that cable operators responding to this survey are more likely to maintain, or are better able to estimate, such information at the system level. Provide your best estimate of the number of households in your system area that purchase service from competing operators.

- 18 Total number of households in system area
 19 Number of households that your distribution system passes
 20 DBS / satellite TV subscribers in your system area (best estimate)
 21 Number of subscribers to other wireline or wireless (MMDS) operators (best estimate)
 22 Does DBS offer local channels (local-into-local service) in system area? (yes or no)

C. Monthly Charges for Community

The "basic service tier" or BST includes retransmitted local broadcast stations; public, educational, and governmental channels; and typically a few additional channels. A "cable programming service tier" or CPST is any programming tier other than BST, pay-per-view, or premium channels. CPST1 refers to the major analog CPST and typically meets two criteria: (1) it has the most channels, and (2) it has the most subscribers among the CPSTs (if more than one CPST is offered). Sometimes a mini-CPST is offered with considerably fewer channels than CPST1. The mini-CPST is considered CPST2 regardless of whether this mini-tier has the most subscribers.

Dollars and cents:

- 23 Monthly charge for BST
 24 Monthly charge for CPST1
 25 Total of BST and CPST1 (23 + 24)

1-Jan-02	1-Jan-03	1-Jan-04

Additional programming:

- 26 Monthly charge for CPST2 (mini-tier)
 27 Monthly charge for most highly-subscribed digital tier

Monthly equipment rental fees:

- 28 Addressable analog converter plus remote control
 29 Digital converter plus remote control

- 30 Percent of BST subscribers also purchasing CPST1 (e.g., enter 90 for 90%)

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D. Installation Charges

Before promotional discounts:

- 31 Unwired home installation
 32 Pre-wired home installation
 33 Reconnection of service

1-Jan-04

E. Other Services at System Level

In reference to households passed in your system area, as reported in Question 19:

- 34 Do you offer a digital programming tier? (yes or no)
 35 If yes, number of households subscribing to your digital service
 36 Do you offer cable Internet access? (yes or no)
 37 If yes, number of households subscribing to your Internet access
 38 Do you offer telephone service? (yes or no)
 39 If yes, number of households subscribing to your telephone service

1-Jan-04

F. Operating Revenues and Expenses, all Services at System Level

In Dollars:

40 Total operating revenues

12 Months Ending	
12/31/02	12/31/03

Include revenue from all services: analog and digital programming (i.e., all programming tiers, pay, and premium channels), service installation, advertising, lease or sale of studio time or other cable facilities, equipment rentals, Internet access, telephony, and other services associated with the cable system. Do not include any non-system level amounts.

41 Total Operating expenses

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Include programming expenses, labor costs, maintenance, and all other expenses directly related to rendering services connected with the cable system. Do not include corporate overhead allocations or other non-system level expenses. Do not include expenses related to construction in progress, depreciation and amortization, interest expenses, losses from sale or disposition of fixed assets, or extraordinary expenses. Extraordinary expenses result from an event or transaction not reasonably expected to recur in the foreseeable future, or an event or transaction that is unusual in nature.

42 Enter total programming expenses for all video programming services**43 Enter total programming expenses for BST and CPST1 tiers only****44 Enter programming expenses for sports networks on BST and CPST1 only****45 Enter programming expenses for news networks on BST and CPST1 only**

Programming expenses for the 12-month periods ending Dec. 31, 2002 and Dec. 31, 2003 may be calculated by multiplying the monthly per-subscriber fees levied by program suppliers times the number of subscribers receiving that programming times 12. Include copyright fees, retransmission consent fees, and other fees paid to programmers and broadcasters.

G. Number of Channels, Jan. 1, 1004

Exclude audio / music-only channels. Number of channels should match totals for channel lineup in Section H.

Analog:

47 Number of channels on BST**48 Number of channels on CPST1****49 Number of channels on CPST2****50 Number of other analog channels (pay, premium, and all other)****51 Total number of analog channels (47 through 50)**

1-Jan-03	1-Jan-04

Digital:

52 Number of channels on most highly-subscribed digital tier**53 Other digital channels (pay, premium, and other digital tiers)****54 Total number of digital channels (52 + 53)**

H. Channel Lineup, Jan. 1, 2004

Report the number of local broadcast, PEG, and local leased access stations, by tier. For other local or national TV channels listed, enter 1 for full-time, 0.5 for half-time, and the number of channels allocated to multiplex services or movie groups (e.g., enter 2 if you carry 2 Showtime channels). If you do not carry the channel, leave blank. If you carry a channel but cannot locate a listing for that channel, enter the name in the blank spaces provided at the end of this Section. Add lines if necessary. Totals are automatically calculated.

	BST	CPST1	CPST2	Other Analog	Major Digital Tier	Pay / Other Digital
Total (automatically calculated)						

Local Broadcast, PEG, and Leased	BST	CPST1	CPST2	Other Analog	Major Digital Tier	Pay / Other Digital
Local broadcast stations						
Public, educational & government						
Local commercial leased access						

[illegible]

(D)	BST	CPST1	CPST2	Other Analog	Major Digital Tier	Pay / Other Digital
Discovery Channel						
Discovery Civilization						
Discovery Espanol						
Discovery Health						
Discovery Home & Leisure						
Discovery Kids						
Discovery People						
Discovery Science						
Discovery Wings						
Disney Channel						
Do-It-Yourself Network						
(E)	BST	CPST1	CPST2	Other Analog	Major Digital Tier	Pay / Other Digital
E! Entertainment Television						
E! Style						
Empire Sports Network						
Encore / Starz group (total)						
ESPN						
ESPN 2						
ESPN Classic						
ESPN News						
ESPN pay-per-view (total)						
EWTN						
(F)	BST	CPST1	CPST2	Other Analog	Major Digital Tier	Pay / Other Digital
Family Channel						
Filipino Channel, The (TFC)						
Fine Living						
FIT TV						
Florida News Channel						
Food Network						
Fox Basic Cable (FX)						
Fox Movie Channel						
Fox News Channel						
Fox Sports Americas						
Fox Sports Digital networks						
Fox Sports Net Arizona						
Fox Sports Net Bay Area						
Fox Sports Net Chicago						
Fox Sports Net Detroit						
Fox Sports Net Florida						
Fox Sports Net Midwest						
Fox Sports Net New England						
Fox Sports Net New York						
Fox Sports Net North						
Fox Sports Net Northwest						
Fox Sports Net Ohio						
Fox Sports Net Pittsburgh						
Fox Sports Net Rocky Mountain						
Fox Sports Net South						
Fox Sports Net Southwest						
Fox Sports West						
Fox Sports West 2						
Fox Sports pay-per-view (total)						

News Now 53						
News on One						
NewsChannel 5+						
NewsChannel 8						
NewsWatch 15						
News World Inter						
Nick at Nite's TV Land						
Nick Too						
Nickelodeon						
NickToon						
Nickelodeon Gas						
NOAA Weather						
NOGGIN						
NorthWest Cable News						
(O-R)	BST	CPST1	CPST2	Other Analog	Major Digital Tier	Pay / Other Digital
Ohio News Network						
Outdoor Channel						
Outdoor Life Network						
OXYGEN						
PAX TV						
Pennsylvania Cable News						
Pittsburgh Cable News						
Playboy (total channels)						
Power TV Zhong Tian						
Product Information Network						
QVC						
R News						
Radio & TV Portugal Intl (RTPI)						
RAI (Italian)						
Regional News Network (RNN)						
Resort Network						
Rhode Island News Channel						
Rio de la Plata						
Romance Classics						
Russian TV Network (RTN)						
(S)	BST	CPST1	CPST2	Other Analog	Major Digital Tier	Pay / Other Digital
San Diego NewsChannel 15						
SBN (Vietnamese)						
Sci-Fi Channel						
Shop at Home						
Shop NBC						
Showtime group (total channels)						
Six News Now						
SoapNet						
Speed Channel						
SportsChannel Florida						
Sunshine Network						
(T)	BST	CPST1	CPST2	Other Analog	Major Digital Tier	Pay / Other Digital
Telemundo satellite feed						
Ten News 2						
Texas Cable News (TXCN)						
The Movie Channel: TMC (total)						
Tri-State Media News						

Notes and Comments